

Chapter 3

The changing context of adoption

Cas O'Neill, Paul Ban and Susan Gair

Chapter summary
Introduction
Different types of adoption
Intercountry adoption
'Known' child adoptions
Permanent care orders
Single adopters
Gay and lesbian adoption
Adoption as part of a continuum of care
Case study: Traditional 'adoption' practice of Torres Strait Islanders
Access to adoption information
Adoptees' access to information
Birth parents' access to information
Counselling vetoes and objections
Perceptions and realities – Have fears regarding access to information been realised?
Conclusion
Key learning points
Questions for consideration
Additional reading
Websites
References
Notes

Chapter summary

Adoption is a process where adoptive parents legally become the parents of a child who ceases to be the child of his or her existing parents. Legislation differs across Australian States and Territories. Up until the 1970s adoption involved the severance of ties between a child and their birth parents in a 'closed' adoption bound by secrecy. The introduction of the Commonwealth Supporting Mother's Benefit in 1973, and growing demands for information from adopted adults and birth mothers, led to substantial changes in adoption practice. From that time there has been a huge decrease in the numbers of

This is a preview. Not all pages are shown.

Additional reading

- AIHW, 2008, *Adoptions Australia 2006–2007*, Australian Institute of Health and Welfare, Canberra.
- Ban, P, 1989, *Traditional Adoption Practice of Torres Strait Islanders and Queensland Adoption Legislation*, Master of Social Work thesis, University of Melbourne.
- Ban, P, 1993a, 'Torres Strait Islander Family Life', 35 *Family Matters* 16–17.
- Ban, P, 1993b, 'Torres Strait Islanders and the Torres Strait', 35 *Family Matters* 18.
- Blyth, E, Crawshaw, M, Haase, J and Speirs, J, 2001, 'The implications of adoption for donor offspring following donor-assisted conception', 6 *Child and Family Social Work* 295–304, 299.
- Crawshaw, M, 2001, 'Lessons from a recent adoption study to identify some of the service needs of, and issues for, donor offspring wanting to know about their donors', 5 *Human Fertility* 6–12.
- Kelly, S, 2000, 'Adoption in Australia: an Overview', *Paper to Family Futures: Issues in Research and Policy*, 7th Australasian Institute of Family Studies Conference, July, Sydney, available via AIFS website at <www.aifs.gov.au>.
- Marshall, A and MacDonald, M, 2001, *The Many-Sided Triangle ... Adoption in Australia*, Melbourne University Press, Melbourne.
- O'Neill, C, 2001, 'Avoiding saying too much – the complexity of relationships between permanent parents and social workers', 26(2) *Children Australia* 19–25.
- O'Neill, C, 2003, 'The Simplicity and Complexity of Support' in Argent, H (ed), 2003, *Models of Adoption Support*, BAAF, London.
- Swain, P, 1992, 'Adoption Information Services: Myths and Realities', in Swain, P and Swain, S (eds), *To Search For Self – The Experience of Access to Adoption Information*, Federation Press, Sydney.
- Triseliotis, J, Feast, J and Kyle, F, 2005, *The Adoption Triangle Revisited*, BAAF, London.
- Winkler, R, Brown, D, Van Keppel, M and Blanchard, A, 1988, *Clinical Practice in Adoption*, Pergamon, New York.
- Witney, C, 2004, 'Original Fathers – An Exploration into the Experiences of Birth Fathers Involved in Adoption in the Mid-20th Century', 28(3) *Adoption and Fostering Journal* 52–61.

Websites

No claim is made as to the accuracy or authenticity of the content of the sites suggested in this chapter. Site addresses change – if the address is no longer accurate, search using keywords or the title of the organisation concerned.

State/Territory adoption provisions and requirements can be found at the department websites in each jurisdiction:

NSW <www.community.nsw.gov.au/DOCS/HOMEPAGE/HOME.html>

Qld <www.qld.gov.au/services_for_queenslanders/health_and_communities>

SA <www.familiesandcommunities.sa.gov.au>

Tas <www.dhhs.tas.gov.au>

Vic <www.office-for-children.vic.gov.au/placement-support/family-records>

WA <www.community.wa.gov.au/DFC/Resources/Adoption>

ACT <www.dhcs.act.gov.au>

NT <www.nt.gov.au/health/index.shtml>

Association of Relinquishing Mothers <www.parentfinders.org/International.htm> and <mc2.vicnet.net.au/home/arms/index.html>

Australian Institute of Health and Welfare <www.aihw.gov.au>

References

- Affleck, M and Steed, L, 2001, 'Expectations and Experiences of Participants in On-going Adoption Reunion Relationships', 71(1) *American Journal of Orthopsychiatry* 33-48.
- AIHW, 2011, *Adoptions Australia 2010-11*, Australian Institute of Health and Welfare, Child Welfare series, no 52, Cat no CWS 40, AIHW, Canberra.
- AIHW, 2012, *Adoptions Australia 2011-12*, Australian Institute of Health and Welfare, Child Welfare series, no 54, Cat no CWS 42, AIHW, Canberra.
- Anderson, R, 1989, 'The nature of adoptee search: adventure, cure, or growth?', 68(6) *Child Welfare* 623-32.
- Ban, P, 1989, *Traditional adoption practice of Torres Strait Islanders and Queensland adoption legislation*, Master of Social Work thesis, University of Melbourne.
- Ban, P, 1993a, 'Torres Strait Islander Family Life', 35 *Family Matters* 16-17.
- Ban, P, 1993b, 'Torres Strait Islanders and the Torres Strait', 35 *Family Matters* 18.
- Campbell, L, Silverman, P and Patti, P, 1991, 'Reunions Between Adoptees and Birth Parents: the Adoptees' Experience', 36(4) *Social Work* 329-35.
- Feast, J and Howe, D, 2004, 'Open adoption records, the human rights of adoptees, and discrimination: the case of *Odievre v France 2003*', 7(1) *European Journal of Social Work* 25-42.
- Fitzroy Legal Service, 2008, *The Law Handbook*, Fitzroy Legal Service, Melbourne.
- Gair, S, 2008 'An Altered State of Being: The psychic disequilibrium of adoption, stories exploring links between adoption and suicidal thoughts and behaviours', *Australian e-Journal of Advanced Mental Health* 7(3), 1-10.
- Gair, S and Moloney, S, 2013 'Broadening notions of 'missing persons' to increase social inclusion, public empathy and healing: Considering the case of children missing through adoption', 4(1) *Journal of Social Inclusion* 90-109.
- Gillard-Glass, S and England, J, 2002, *Adoption New Zealand: the never ending story*, HarperCollins Publishers, Auckland.
- Hajal, F and Rosenberg, E, 1991, 'The Family Life Cycle in Adoptive Families', 61 *American Journal of Orthopsychiatry* 78-85.
- Harrison, M, 1991, 'Changing Families, Changing Laws - Patterns of Parenting after Separation', 29 *Family Matters* 14-18.
- House of Representatives Standing Committee on Family and Human Services, 2005, *Overseas Adoption in Australia*, AGPS, Canberra.
- Howe, D and Feast, J, 2000, *Adoption, Search and Reunion: the Long-Term Experience of Adopted Adults*, The Children's Society, London.
- Howe, D and Feast, J, 2001, 'The Long-term outcome of reunions between adult adopted people and their birth mothers', 31(3) *British Journal of Social Work* 351-68.
- Lawrence, D and Lawrence, H, 2004, 'Torres Strait: the region and its people', in Davis, R (ed), *Woven Histories, Dancing Lives*, Aboriginal Studies Press, ANU, Canberra.
- Lee, D, 1992, 'The growth and role of self help groups', in Swain, P and Swain, S (eds), *To Search For Self - The Experience Of Access To Adoption Information*, Federation Press, Sydney.
- Lichtenstein, T, 1995, 'To tell or not to tell: factors affecting adoptees' telling their adoptive parents about their search', 75(1) *Child Welfare* 61-72.
- March, K, 1995, 'Perception of adoption as social stigma: Motivation for Search and reunion', 57(3) *Journal of Marriage and the Family* 653-60.
- Marshall, A and MacDonald, M, 2001, *The Many-Sided Triangle ... Adoption in Australia*, Melbourne University Press, Melbourne.
- Meggitt, M, 1992, 'To know one's child', in Swain, P and Swain, S (eds), *To Search For Self - The Experience Of Access To Adoption Information*, Federation Press, Sydney.
- Mendenhall, T, Berge, J and Wrobel, G, 2004, 'Adolescents' Satisfaction with Contact in Adoption', 21(2) *Child and Adolescent Social Work Journal* 175-90.
- Miall, C, 1998, 'Community assessments of adoption issues: open adoption, birth reunions, and the disclosure of confidential information', 19(5) *Journal of Family Issues* 556-77.

THE CHANGING CONTEXT OF ADOPTION

- O'Neill, C, 2001, 'Avoiding saying too much – the complexity of relationships between permanent parents and social workers', 26(2) *Children Australia* 19–25.
- O'Neill, C, 2003, 'The Simplicity and Complexity of Support', in Argent, H (ed), 2003, *Models of Adoption Support*, BAAF, London.
- O'Shaughnessy, T, 1994, *Adoption, Social Work and Social Theory*, Avebury, Aldershot, UK.
- Pacheco, F and Eme, R, 1993, 'An outcome study of the reunion between adoptees and biological parents', 72(1) *Child Welfare* 53–64.
- Palacios, J and Brodzinsky, MD, 2010 'Adoption research: Trends, topics, outcomes', 34 *International Journal of Behavioral Development*, 270–84.
- Parkinson, P, 2003, 'Child Protection, Permanency Planning and Children's Right to Family Life', 17(2) *International Journal of Law, Policy and the Family* 147–72.
- Petta, G and Steed, L, 2005, 'The Experience of Adoptive Parents in Adoption Reunion Relationships: A Qualitative Study', 75(2) *American Journal of Orthopsychiatry* 230–41.
- Sadchev, P, 1991, 'Achieving Openness in Adoption: some critical issues in policy formulation', 61(2) *American Journal of Orthopsychiatry* 241–9.
- Sadchev, P, 1992, 'Adoption reunion and after: A Study of the Search Process and Experience of Adoptees', 71(1) *Child Welfare* 53–68.
- Sorosky, A, Baran, A and Pannor, R, 1984, *The Adoption Triangle*, Anchor Books, New York.
- Schechter, M and Bertocci, D, 1990, 'The Meaning of Search', in Brodzinsky, D and Schechter, M (eds), 1990, *The Psychology of Adoption*, Oxford University Press, Oxford.
- Seigel, D, 2003, 'Open Adoption of Infants: Adoptive Parents' Feelings Seven Years Later', 48(3) *Social Work* 409–19.
- Silverman, P, Campbell, L, Patti, P, and Style, Briggs, C, 1988 'Reunions between adoptees and birth parents: The birth parents' experience', 33(6) *Social Work* 523–8.
- Smith, C and Logan, J, 2004, *After Adoption: Direct Contact and Relationships*, Routledge, London.
- Swain, P and Swain, S, 1992, *To Search for Self – The Experience Of Access To Adoption Information*, Federation Press, Sydney.
- The Senate Community Affairs References Committee, 2012, *Commonwealth contribution to former forced adoption policies and practices*, Commonwealth of Australia, Canberra.
- Tregeagle, S and Orr, B, 2003, 'What do we need to know to protect the welfare of Australia's most vulnerable children?', 8 *Developing Practice – The Child, Youth and Family Work Journal* 50–60.
- Trinder, L, Feast, J and Howe, D, 2004, *The Adoption Reunion Handbook*, John Wiley and Sons, Chichester.
- Triseliotis, J, Feast, J and Kyle, F, 2005, *The adoption triangle revisited*, BAAF, London.
- Victorian Law Reform Commission, 2007, *Assisted Reproductive Technology and Adoption*, Final report <www.lawreform.vic.gov.au/wps/wcm/connect/Law+Reform/Find/Publications>.
- Wegar, K, 1997, *Adoption, Identity and Kinship: The Debate Over Sealed Adoption Records*, Yale University Press, New Haven.

Notes

- 1 The Commonwealth Department of Immigration and Citizenship regulates the entry of non-citizen children into Australia. The AustLII website provides access to State and Territory adoption legislation, see <www.austlii.edu.au>.
- 2 See, for example, the *Adoption Act 1984* (Vic) s 59A which provides that, where the parties agree and the circumstances make it desirable, an adoption order may include conditions providing for ongoing access for the birth parents and/or exchange of information between the adoptive and birth family on an ongoing basis. See also 'Provisions for "open" adoptions' in AIHW 2011, Appendix B2.
- 3 See 'Summary of legislation' in AIHW 2011, Appendix B1.
- 4 See House of Representatives Standing Committee on Family and Human Services, 2005, *Overseas Adoption in Australia*, AGPS, Canberra, a key recommendation of

- which was for the Commonwealth Attorney-General's Department to take primary responsibility for the establishment and management of Australia's intercountry adoption programs. This report is available at <www.aph.gov.au/house/committee/fhs/adoption/report.htm>.
- 5 A list of all countries party to the Hague Convention is found in AIHW 2011, Appendix C.
 - 6 Ratifying the Hague Convention is meant to add another layer of protection for children in that minimum processes must be adhered to in order to prove that the child is legally available for adoption and not trafficked, and that the adoptive parents have not had any additional monies extorted to pay for the child or the process. The countries with which Australia has bilateral agreements do have minimum standards that address these factors and as such these agreements are said to be 'Hague compliant'. The Hague Convention, however, guarantees government-to-government involvement rather than involvement with private contracted agencies (AIHW 2011: 2.2).
 - 7 See AIHW, 2011.
 - 8 See, for example, the *Adoption Act 2000* (NSW), which at s 30 provides that an adoption order in favour of a step parent cannot be made unless:
 - (a) the child is at least 5 years old, and
 - (b) the step parent has lived with the child and the child's birth or adoptive parent for a continuous period of not less than 3 years immediately before the application for the adoption order, and
 - (c) specific consent to the adoption of the child by the step parent has been given in accordance with this Act by the appropriate persons, and
 - (d) the Court is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the child.
 - 9 Victorian Law Reform Commission, 2007, *Assisted Reproductive Technology and Adoption*, Final report <www.lawreform.vic.gov.au/wps/wcm/connect/Law+Reform/Find/Publications>. Victoria has requested that the 2008 Community and Disability Ministers' Conference examine aspects of adoption, including policy and legislation regarding eligibility and suitability to adopt.
 - 10 Section 320 of the *Children, Youth and Families Act 2005* (Vic) provides that a permanent care order may be made in relation to any person approved as suitable to have custody and guardianship of the child. Section 3 defines persons to include domestic partner living 'as a couple on a genuine domestic basis (irrespective of gender)'.
 - 11 For a discussion of both sides of this debate, see the Gay and Lesbian Equality (galewa) website <www.galewa.asn.au>.
 - 12 Approved adoption agencies are listed under the 'Adoption' section in Fitzroy Legal Service, 2014, *The Law Handbook*, Fitzroy Legal Service, Melbourne. They are also listed at <www.cyf.vic.gov.au/adoption-permanent-care>.